

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 252**

**Regulation YY; Docket No. R-1534**

**RIN 7100-AE 38**

**Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations**

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Final rule to extend compliance dates.

**SUMMARY:** The Board is adopting a final rule to amend the compliance dates related to Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations (final SCCL rule). The final rule revises the final SCCL rule to modify the initial compliance dates of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization, and July 1, 2020, for any other foreign banking organization subject to the final SCCL rule to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to a foreign banking organization's combined U.S. operations only.

**DATES:** The final rule is effective on [DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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General Counsel, (202) 452-2036; Chris Callanan, Counsel, (202) 452-3594; Lucy Chang, Counsel, (202) 475-6331; or Jeffery Zhang, Attorney, (202) 736-1968, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

## **SUPPLEMENTARY INFORMATION:**

### **I. DISCUSSION**

On August 6, 2018, the Board published in the *Federal Register* a final rule to establish single-counterparty credit limits (SCCL) for bank holding companies and foreign banking organizations (FBOs) with total consolidated assets of at least \$250 billion, pursuant to section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (final SCCL rule).<sup>1</sup> The rule was amended as part of the Board's recent tailoring rule establishing risk-based categories for determining prudential standards for large U.S. banking organizations and FBOs.<sup>2</sup> For FBOs, the amended final SCCL rule established separate SCCL applicable to (1) the combined U.S. operations of an FBO that is subject to Category II or III standards or that has total global consolidated assets of \$250 billion or more, and (2) any U.S. intermediate holding company (IHC) that is subject to Category II or III standards. With respect to the SCCL applicable to the combined U.S. operations of an FBO, the final SCCL rule established different compliance dates based on whether the FBO has the characteristics of a global systemically important banking organization (GSIB). An FBO that has the characteristics of a GSIB must comply with these SCCL beginning on January 1, 2020, while an FBO that does not have the

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<sup>1</sup> 83 FR 38460 (Aug. 6, 2019). *See also* 12 U.S.C. 5365(e).

<sup>2</sup> 84 FR 59032 (Nov. 1, 2019).

characteristics of a GSIB must comply beginning on July 1, 2020, unless that time is extended by the Board in writing.<sup>3</sup>

The final SCCL rule allows an FBO to comply with the SCCL applicable to its combined U.S. operations by certifying to the Board that it meets, on a consolidated basis, SCCL standards established by its home country supervisor that are consistent with the large exposures framework published by the Basel Committee on Banking Supervision in 2014 (BCBS Large Exposure Standard). Because the BCBS Large Exposure Standard is consistent with the Board's final SCCL rule, this approach reduces burden.<sup>4</sup>

Following the Board's adoption of the final SCCL rule, many foreign banks and their trade associations noted that, although efforts are underway in many jurisdictions to implement the BCBS Large Exposure Standard, the framework may not be fully implemented in the home countries of FBOs before the initial compliance dates of the final SCCL rule. Foreign banks indicated that it would be significantly burdensome to build systems to permit their combined U.S. operations to report compliance with the Board's final SCCL rule solely for use during the implementation gap period, since those FBOs will eventually be subject instead to a home-country large exposures framework consistent with the BCBS Large Exposure Standard on a consolidated basis.

The home countries of the FBOs whose combined U.S. operations are subject to the Board's final SCCL rule are China, Canada, Switzerland, Japan, the United Kingdom, and member states of the European Union. Those countries generally have made progress over the past year on implementing the BCBS Large Exposure Standard. At this time, China, Canada,

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<sup>3</sup> 12 CFR 252.170(c).

<sup>4</sup> 12 CFR 252.172(d).

and Switzerland have final frameworks that have become effective.<sup>5</sup> The European Union has finalized an SCCL framework that will become effective on June 28, 2021.<sup>6</sup> Japan does not yet have a final effective framework. The United Kingdom is expected to follow the European Union’s final framework.<sup>7</sup>

In adopting the final SCCL rule, the Board agreed to defer to home country compliance with the BCBS Large Exposure Standard to prevent application of two largely redundant SCCL frameworks to the combined U.S. operations of FBOs.<sup>8</sup> For the above reasons, on November 20, 2019, the Board issued a proposed rule to modify the initial compliance dates regarding the SCCL applicable to an FBO’s combined U.S. operations by 18 months to July 1, 2021, for an FBO that has the characteristics of a GSIB, and January 1, 2022, for any other FBO subject to the final SCCL rule, unless that time is extended by the Board in writing.

The comment period for the Board’s proposal to modify the final SCCL rule’s initial compliance dates as described above ended on December 20, 2019. The Board received four comment letters on the proposed extension, three of which supported the proposed 18-month

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<sup>5</sup> See FINMA Circular 2013/7 “Intragroup exposure—banks” and Circular 2019/1 “Risk diversification—banks” (effective as of Jan. 1, 2019); IMF, Peoples Republic of China: Detailed Assessment of Observance of Basel Core Principles for Effective Banking Supervision, IMF Country Report No. 17/403 (Dec. 2017); OSFI Guideline B-2, Large Exposure Limits (effective as of Nov. 1, 2019). Although Canada’s framework was effective as of November 1, 2019, implementation by Canadian banks will begin in Q1 2020.

<sup>6</sup> See Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012.

<sup>7</sup> An 11-month transition period, due to end on December 31, 2020 was established after the UK formally left the European Union on January 31, 2020., During this 11-month period, the UK will continue to follow all of the European Union’s rules and its trading relationship will remain the same.

<sup>8</sup> 83 FR at 38487.

extension of time, and one of which was not directly relevant to the proposal. No commenter requested any alternate or additional extension of time for specific events or circumstances, although one commenter suggested that, to the extent certain home countries need additional time to implement the BCBS Large Exposure Standard, the Board should allow individual FBOs to seek reasonable, limited extensions beyond the proposed 18-month period.

Having considered these comments, the Board is adopting the rule as proposed. The 18-month period takes into account the effective date of the EU's framework, and the Board believes it provides a reasonable period for firms to come into compliance with the final SCCL rule, either through direct compliance or certification of compliance with a home-country framework consistent with the BCBS Large Exposure Standard. To the extent an individual FBO believes its specific circumstances warrant an additional, limited extension of time, that FBO may request an extension of time from the Board in writing. The Board will consider such requests on a case-by-case basis.

## II. Administrative Law Matters

### A. *Administrative Procedure Act*

The Board is issuing the final rule without the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).<sup>9</sup> The APA requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.<sup>10</sup> Because the rule relieves a restriction, the final rule is exempt from the APA's delayed effective date requirement.<sup>11</sup>

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<sup>9</sup> 5 U.S.C. 553.

<sup>10</sup> 5 U.S.C. 553(d).

<sup>11</sup> 5 U.S.C. 553(d)(1).

## ***B. Paperwork Reduction Act***

Certain provisions of the final rule contain “collections of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. §§ 3501–3521). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the final rule under the authority delegated to the Board by OMB. The Board did not receive any specific comments on the PRA for the proposal.

The final rule contains revisions to the compliance date for the reporting and recordkeeping requirements subject to the PRA. To implement these requirements, the Board is revising the Single-Counterparty Credit Limits (FR 2590; OMB No. 7100-NEW).

### **Adopted Revision, With Extension, of the Following Information Collection**

*Report title:* Single-Counterparty Credit Limits.

*Agency form number:* FR 2590.

*OMB control number:* 7100-0377.

*Frequency:* Quarterly, annual, and event-generated.

*Affected Public:* Businesses or other for-profit.

*Respondents:* U.S. global systemically important bank holding companies (GSIBs) and other U.S. bank holding companies (BHCs) or savings and loan holding companies (SLHCs) that are subject to Category I, II, or III standards; foreign banking organizations (FBOs) that are subject to Category II or III standards or that have \$250 billion or more in total global consolidated assets; and U.S. intermediate holding companies (IHCs) that are subject to Category II or III standards.

*Estimated number of respondents: 75.*

*Estimated average hours per response:*

### **Reporting**

One-time implementation: 1,273 hours.

Ongoing: 254 hours.

Requests for temporary relief: 10 hours.

### **Recordkeeping**

Recordkeeping: 0.25 hours.

*Estimated annual burden hours:*

### **Reporting**

One-time implementation: 95,475 hours.

Ongoing: 76,200 hours.

Requests for temporary relief: 30 hours.

### **Recordkeeping**

Recordkeeping: 75 hours.

*General description of report:* The FR 2590 is being implemented in connection with the Board's single-counterparty credit limits rule (final SCCL rule),<sup>12</sup> which has been codified in the Board's Regulation YY - Enhanced Prudential Standards (12 CFR part 252).<sup>13</sup>

The information collected by the Single-Counterparty Credit Limits reporting form (FR 2590 report) will allow the Board to monitor a covered company's or a covered foreign entity's compliance with the final SCCL rule. As amended by the Board's final tailoring rule, a

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<sup>12</sup> 83 FR 38460 (Aug. 6, 2018).

<sup>13</sup> See 12 CFR 252, subparts H and Q.

covered company is any U.S. bank holding company (BHC) or savings and loan holding company (SLHC) that is subject to Category I, II, or III standards.<sup>14</sup> A covered foreign entity is any foreign banking organization (FBO) that is subject to Categories II or III standards or that has total global consolidated assets that equal or exceed \$250 billion and any U.S. intermediate holding company (IHC) that is subject to Category II or III standards.<sup>15</sup> In addition to the reporting form, the FR 2590 information collection incorporates notice requirements pertaining to requests that may be made by a covered company or covered foreign entity to request temporary relief from specific requirements of the final SCCL rule. A respondent must retain one exact copy of each completed FR 2590 in electronic form, and these records must be kept for at least three years.

*Legal authorization and confidentiality:* The FR 2590 is authorized pursuant to section 5(c) of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844(c)), section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(e)), and section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)). With respect to FBOs and their subsidiary IHCs, the FR 2590 is authorized pursuant to section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act of 1978 (12 U.S.C. 3106). The FR 2590 is mandatory.

The data collected on the FR 2590 form will be kept confidential under exemption 4 of the Freedom of Information Act (FOIA), which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)), and exemption 8 of FOIA, which

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<sup>14</sup> 12 CFR 252.70, 252.170; *see also* 84 FR 59032 (Nov. 1, 2019).

<sup>15</sup> *Id.*



protects from disclosure information related to the supervision or examination of a regulated financial institution (5 U.S.C. 552(b)(8)).

Regarding notices associated with requests for temporary relief from specific requirements of the SCCL rule, a firm may request confidential treatment under the Board's rules regarding confidential treatment of information at 12 CFR 261.15. The Board will consider whether such information may be kept confidential in accordance with exemption 4 of FOIA (5 U.S.C. 552(b)(4)) or any other applicable FOIA exemption.

*Current Actions:* The final SCCL rule had an effective date of October 5, 2018, and an initial compliance date of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization, and July 1, 2020, for any other foreign banking organization subject to the rule, unless that time is extended by the Board in writing. The Board is modifying these initial compliance dates to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to such a foreign banking organization's combined U.S. operations only.<sup>16</sup> There are no proposed changes to the reporting or recordkeeping requirements for such entities, and the burden hours would remain the same.

### ***C. Regulatory Flexibility Act***

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), generally requires an agency, in connection with a final rulemaking, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, a final regulatory flexibility analysis is not required if the agency certifies

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<sup>16</sup> The Board is not providing any amendment at this time that would modify the initial compliance dates in the final rule for, or otherwise amend the application of, single-counterparty credit limits applicable to any U.S. intermediate holding company of a foreign banking organization subject to the rule.

that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$600 million.<sup>17</sup> The Board has considered the potential impact of the final rule on small entities in accordance with the RFA. Based on its analysis, and for the reasons stated below, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.<sup>18</sup>

As discussed in the **SUPPLEMENTARY INFORMATION**, the final SCCL rule generally applies to U.S. bank holding companies subject to Category I, II, or III standards, and foreign banking organizations that are subject to Category II or III standards or that have total global consolidated assets of at least \$250 billion. Companies that are subject to the final SCCL rule have consolidated assets that substantially exceed the \$600 million asset threshold at which a banking organization is considered a “small entity” under SBA regulations. Because the final SCCL rule does not apply to any small entities for purposes of the RFA, the amendments to the rule to extend the initial compliance dates applicable to FBOs subject to SCCL with respect to their combined U.S. operations would not affect any small entity for purposes of the RFA. The Board’s final rule would not impose any new recordkeeping, reporting, or other compliance requirements. In light of the foregoing, the Board believes that the final rule would not have a significant economic impact on a substantial number of small entities.

#### ***D. Solicitation of Comments on the Use of Plain Language***

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. No. 106-102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and

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<sup>17</sup> See 13 CFR 121.201; 84 Fed. Reg. 34261 (July 18, 2019).

<sup>18</sup> 5 U.S.C. 605.

final rules published after January 1, 2000. The Board sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

**List of Subjects in 12 CFR Part 252**

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

**Authority and Issuance**

For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System amends 12 CFR part 252 as follows:

**PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY).**

**§ 252.170 Applicability and general provisions.**

1. Section 252.170(c)(1) is revised to read as follows:

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(c) *Applicability of this subpart—(1) Foreign banking organizations.* (i) A foreign banking organization that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on January 1, 2022, unless that time is extended by the Board in writing.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a foreign banking organization that is a major foreign banking organization as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2021, unless that time is extended by the Board in writing.

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**By order of the Board of Governors of the Federal Reserve System, May 1, 2020.**

Ann Misback,  
*Secretary of the Board.*